

MARCH 7, 2008
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

FARIS AL-HELALI,)
 Plaintiff,)
v.) **No.:**
))
))
MICHAEL CHERTOFF,) **A# 028190353**
AS THE DIRECTOR OF)
THE DEPARTMENT OF HOMELAND)
SECURITY, ROBERT S. MUELLER, III)
AS THE DIRECTOR OF FEDERAL)
BUREAU OF INVESTIGATIONS)
 Defendant)
)

08 C 1396

**JUDGE CASTILLO
MAGISTRATE JUDGE DENLOW**

COMPLAINT FOR MANDAMUS

Plaintiff, FARIS AL-HELALI, by and through, REEM H. ODEH, of the LAW OFFICES OF BRODSKY & ODEH respectfully requests this Court to enter an order directing the Defendant, MICHAEL CHERTOFF, Director of Homeland Security to adjudicate Plaintiff's application for Naturalization. In support of said request, the Plaintiff states as follows:

JURISDICTION AND VENUE

1. The is a civil action brought pursuant to 8 U.S.C. section 1329, and 28 U.S.C. Sections 1331 and 1361, and Section 1447(b) to redress the deprivation of rights, privileges and immunities secured to Plaintiff, by which statutes jurisdiction is conferred, to compel Defendant to perform a duty Defendant owes to Plaintiff, 5 U.S.C. section 704 also confers jurisdiction.
2. Venue is proper under 28 U.S.C. section 1391(b), since Defendant is the Director of the Bureau of Citizenship and Immigration Services (BCIS), an agency of the United States Government, under the Department of Homeland Security. The Defendant Robert S. Mueller III, is the Director of the federal Bureau of Investigations.

PARTIES

3. The is a civil action brought pursuant to 8 U.S.C. section 1329, and 28 U.S.C. Sections 1331 (Federal Questions) because Plaintiffs' claims arise under the federal laws of the United States, and 1361 (Mandamus Act), and Section 1447(b) to redress the deprivation of rights, privileges and immunities secured to Plaintiff, by which statutes jurisdiction is conferred, to compel Defendant to perform a duty Defendant owes to Plaintiff, 5 U.S.C. section 704 also confers jurisdiction, 28 U.S.C §2201 (Declaratory Judgement Act) and under 5 U.S.C. §701 *et seq.* (Administrative Act of the "APA").

4. Venue is proper under 28 U.S.C. section 1391(b), since Defendant is the Director of the Bureau of Citizenship and Immigration Services (BCIS), an agency of the United States Government, under the Department of Homeland Security. The Defendant Robert S. Mueller III, is the Director of the Federal Bureau of Investigations. That Robert Mueller is sued in his official capacity. The FBI is responsible for the proper background clearance conducted on each applicant for naturalization.

5. This action is brought to compel the defendant, officers and an agency of the United States, to perform its duties arising under the laws of the United States.

6. The APA requires USCIS and the FBI to carry out their duties within a reasonable time. The provision of the APA that provides this is 5 USC Sec. 555(b), which states that "with due regard for the convenience and necessity of the parties or their representatives and within a reasonable time, each agency shall proceed to conclude a matter presented to it." USCIS and FBI are subject to 5 USC Sec. 555(b). The Plaintiffs contend that the delays in processing their applications for naturalization are unreasonable.

CLAIMS FOR RELIEF

7. On October 28, 2003, Plaintiff filed his application for Naturalization for U.S. Citizenship, paid the appropriate filing fee.

8. On August 19, 2003 the Plaintiff was requested to have his Biometrics completed and fingerprints taken which was successfully completed.

9. That on March 16, 2004 the Plaintiff appeared for his naturalization interview in Chicago and was told that he passed his exam. Plaintiff is currently working as a Human Terrain Analyst employed by Strategic Analysis. This is a program developed to increase safety and security of U.S. Forces deployed in Iraq.

10. Prior to the filing of this Complaint, the Plaintiff has made several attempts with the Defendant to inquire about the status of his application, the Plaintiff or his attorneys have made numerous oral and written requests of the Defendant concerning a final adjudication of said applications. No further action was taken by Defendants in this matter.

11. The Defendant, in violation of the Administrative Procedure Act, is unlawfully withholding or unreasonably delaying a decision on the applications of Plaintiff.

12. Plaintiff has exhausted any remedies that may be exist.

WHEREFORE, Plaintiff prays that the Court:

- A. Compel Defendant and those acting under him to perform their duty to rule upon the Plaintiff's applications;
- B. Grant attorney's fees and cost of court
- C. Grant such other and further relief as this Court sees proper under the circumstances.

Respectfully Submitted,

/s/ Reem Odeh

Reem H. Odeh
Attorney for Plaintiff

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